



# Michigan Lawmakers Seek to Expand Workplace Protections for LGBTQ Workers

Insights

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The Michigan Senate took a historic step yesterday to increase workplace protections for members of the LGBTQ community by passing a law that would prohibit discrimination on the basis of sexual orientation, gender identity, or expression. Senate Bill 4 (2023) expands the protections of Michigan's Elliott-Larsen Civil Rights Act not only in employment but also in public accommodations and services. While several steps still need to occur before the bill can become law, the groundwork appears to be laid for this new classification of protected worker to be added to state law in the near future. What do employers need to know about this legislative development and what should you do to prepare?

## The Details

The Senate bill that just passed defines "sexual orientation" as "having an orientation for heterosexuality, homosexuality, bisexuality or have a history of such an orientation or being identified with such orientation." It further defines gender identity or expression" as having or being perceived as having a gender-related self-identity or expression whether or not associate with an individual's assigned sex at birth."

If this law eventually passes and takes effect, employers could face repercussions if they are found to have discriminated against LGBTQ applicants or employees – including rejecting job candidates, terminating their employment, or other adverse workplace actions.

Further, harassment based on LGBTQ status would also be unlawful and subject to civil lawsuits.

Finally, the law prevents employers from making inquiry to job applicants about their sexual orientation or gender identity or expression.

## What's Next?

The bill now moves to the Democratic-controlled House of Representatives where it will likely be passed with little modification. It would then head to the desk of Governor Whitmer. The Governor publicly indicated she is firmly in support of the bill last week, calling the likely passage of the bill to be a "foundational moment" in the history of the state.

Once signed into law by the governor, the law new will take effect 90 days later – so the time is now to prepare.

## **What Should You Do?**

For many Michigan employers, today's ruling may be somewhat of a non-story. After all, many employers already have policies prohibiting sexual orientation and gender identity discrimination in employment. Further, those subject to the federal Title VII law have been barred from such discriminatory acts since a 2020 Supreme Court ruling. Many employers have long since integrated workplace protections and policies to include LGBTQ applicants and workers.

But for those Michigan employers who do not yet have antidiscrimination policies related to sexual orientation and gender identity, the time is now to take action. You should review and revise your workplace policies and practices, managerial training materials, employee antidiscrimination and anti-harassment training sessions, interview and hiring protocols, benefits offerings, and any other practice which may otherwise impact workers because of their sexual orientation and gender identity. You will want to make sure all of these changes are in place well ahead of the effective date, so the time to act is now.

## **Conclusion**

We will continue to monitor developments in this area and provide updates as warranted, so make sure that you are subscribed to Fisher Phillips' Insights to get the most up-to-date information direct to your inbox. If you have further questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorney in our Detroit office.

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